

CHAPTER 10 PUBLIC LANDS

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10-01. Taking of Land for Public Purpose 1. ACQUIRING OF PROPERTY. It shall be lawful for, and the right is hereby conferred upon cities of the first class and counties in this state having a population of two hundred and fifty thousand and upwards to purchase, acquire, enter upon, take, use and appropriate private property for the purpose of making, enlarging, extending, protecting and maintaining public parks, parkways, civic centers and playgrounds within the limits of such city or county whenever the common council or county board thereof shall by ordinance or resolution determine.

2. SALE OF LAND. a. It shall be lawful for, and the right is hereby conferred upon cities of the first class and counties having a population of two hundred and fifty thousand and upwards in this state to purchase, acquire, enter upon, take, use and appropriate neighborhood private property for the purposes herein specified for the protection and establishing public parks, parkways, civic centers and playgrounds, and after the improvement is made to re-sell such neighborhood property with restrictions as to building thereon and use thereof so as to carefully preserve the same for the purposes intended.

b. The ordinances or resolutions providing for the taking of such lands shall set forth why the use thereof and the control thereof is necessary to protect such public grounds or to establish new grounds and may include, in addition to the protection hereinbefore specified, the preservation of the view, appearance, light, air or usefulness in general of said premises for public purposes.

3. FOR PUBLIC USE. a. The taking, using, and appropriating, by the right of eminent domain as herein provided, of private property for the purpose of making, enlarging, extending, and maintaining public parks, parkways, civic centers and playgrounds, and of neighboring property, of such public parks, parkways, civic centers and playgrounds, in order to protect such public parks, parkways, civic centers and playgrounds, their environs, the preservation of the view, appearance, light, air, health, and usefulness thereof, by re-selling such neighboring property, with such restrictions in the deeds of re-sale as will protect said property, so taken for the aforesaid purpose, is hereby declared to be taking, using and appropriating of such private property for public use.

b. The proceeds arising from the re-sale of any such property, so taken, shall be deposited in the treasury of said cities, or counties and be subject to general appropriation by the council or county board of said city or county.

4. COMPENSATION. In all cases wherein cities or counties of this state shall hereafter take, use, and appropriate private property for the aforesaid purposes, by ordinance, if the compensation and damages arising therefrom cannot be agreed upon by the owners thereof and such cities or counties such compensation and damages shall be considered, ascertained, determined, awarded, and paid in the manner provided in sections 895 [now S. 61.36 Stats.] to 904 [now S. 61.38 Stats.], inclusive, and other appropriate provisions of the statutes.

5. CONTRACTS. Contracts may be made by the public authorities with owners of lands to improve such lands and to own the same after improvement is made subject to limitations as to building and use thereof. Such contracts when acknowledged and recorded in the register's office shall be a restriction on the right of the owner of the use of such land which can be enforced by the public, and shall extend to his grantee or grantees.

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6. AUTHORITY. The power of the public authorities to carry out the purposes of this act shall not be limited to the section of the statutes herein referred to, but may be sought and exercised under other appropriate provisions thereof, the whole act to be liberally construed for the purposes herein referred to. (*S. 1 thru 6, Ch. 165, L. 1909.*)

10-02. Exchange of Lands with United States.

Any city of the first class, whether organized under general laws or special charter, is hereby authorized and empowered to sell, convey, lease, or exchange to or with the United States government, any park or other public lands belonging to such city to be used as a site for an United States government light house or a life saving station, which sale, conveyance, lease or exchange shall first be recommended to such common council by the board of park commissioners of such city or other board or body having control or management of such park or other public lands, and thereupon the common council of such city may authorize the same by a resolution fixing the terms and conditions of the transaction; provided, that this act shall not apply to any portion of submerged land constituting the bed of Lake Michigan, granted by the state to such city for public park and boulevard purposes. (*S. 1, Ch. 202, L. 1911.*)

10-03. Assessments for Parks. Wherever a city of the first class hereafter shall have acquired land for park purposes by gift, purchase or otherwise, it may assess benefits accruing to any property benefited thereby, whether abutting or not, in the manner provided by law. In making any such assessment the damages that may have been sustained by said property shall be determined as provided by law. The amount chargeable against any lands by reason of such assessment may be made payable in annual installments for such period not exceeding twenty years and drawing such rate of interest not exceeding six per cent per annum as the common council may provide. (*S. 1, Ch. 392, L. 1929.*)

10-04. Care of City Lands. 1. The management, control, improvement and regulation of all boulevards, pleasureways, small parks, park plots and all such other city-

owned lands which the common council may from time to time designate by ordinance or resolution are hereby placed under the management and care of the commissioner of public works of the city of Milwaukee.

2. The commissioner of public works may plant, transplant, remove, trim, spray, and otherwise care for, and protect all trees and shrubs, on or in that part of any street, the grade of which has been established, lying between the lot line and the curb, or in the center and side plots in all boulevards and parkways, and in all small parks, park plots and other city-owned lands over which the commissioner of public works exercises control, as he believes the best interest of the public requires.

3. The cost of planting, renewing and removing trees and shrubs and the cost of trimming, operating, caring for and maintaining any such trees or shrubs between the lot line and the curb in front of any lot or parcel of land abutting on a street, avenue or boulevard, shall not be chargeable to or assessed upon such lot or parcel of land, unless otherwise ordered by the common council.

4. The commissioner of public works shall advance out of proper funds sufficient money for doing said work.

5. Whenever the common council shall set aside any street or highway as a boulevard or pleasureway, it shall be lawful for the commissioner of public works to improve the center plot of such boulevard or pleasureway by laying out thereon of lawns, flower beds and other similar improvements.

6. The policing of all parks heretofore under the Milwaukee board of park commissioners and now under the control of the Milwaukee county park commission, is hereby transferred to the police department of the city of Milwaukee. (*S. 1 thru 6, Ch. Ord. 98, Mar. 14, 1938.*)

7. The cost of planting, renewing and removing, trimming, spraying and caring for trees and shrubs between the lot line and the curb in front of any lot or parcel of land abutting on a street, avenue or boulevard shall be chargeable to and assessed upon such lot or parcel of land in the manner prescribed in this charter ordinance. Provided, however, that beginning January 1, 1932, the cost of trimming, spraying, caring for and maintaining

any such trees and shrubs shall not be assessed but shall be charged to such fund as may be set up in the budget for that purpose. (S. 1, Ch. Ord. 42., Apr. 20, 1931.)

10-05. Submerged Lands. Any city of the first class, however incorporated, is hereby authorized to issue bonds to be retired and paid by the two-tenths of a mill tax on each dollar of the assessed value of its taxable property, to be used by the board of park commissioners for the purpose for filling in and improving and maintaining as a public park or boulevard any strip of submerged land provided for in chapter 352 of the laws of 1913, as well as any tax provided for in chapter 254 of the laws of 1913 for the purpose of filling in, improving and maintaining submerged land, as well as the tax provided for in any other law for any such purpose, it being the purpose of this section that any such city shall be authorized to issue bonds on the strength of the said mill tax levies, which said bonds are to be retired and paid for by said tax levies. (S. 1, Ch. 111, L. 1915.)

10-06. Boulevards. 1. AUTHORIZED. Any city within this state of the first or second class as defined by chapter 40a of Sanborn and Berryman's annotated statutes of this state and the acts amendatory thereof, whether operating under said chapter or under special charter is hereby authorized to set aside certain streets therein in the manner hereinafter designated to be known as boulevards or pleasure ways and may regulate the use of the same. (S. 1, Ch. 167, L. 1895.)

2. TO DESIGNATE BOULEVARDS. Any of the cities defined in Section 1, of this act, having a board of park commissioners or commissioners of public parks may, by a majority vote of the common council of such city, upon recommendation of said park commissioners or commissioners of public parks designate any street within such city and declare the same to be a boulevard or pleasure way and may provide for the use thereof and designate what character of vehicles may travel thereon; provided, that no such city shall be authorized to prohibit the ordinary use of any or all parts of such boulevard or pleasure way for the purpose of obtaining orders for, and the carrying of supplies or any other necessary things to, or from any place or residence fronting on said boulevard. (S. 2, Ch. 167, L. 1895.)

3. BY COUNCIL. Any of the cities designated in Section 1, of this act, which have

no board of park commissioners or commissioners of public parks may, upon the recommendation of the mayor and a majority of such common council, adopt and prescribe rules and designate and declare certain streets to be boulevards or pleasure ways and regulate the use of the same in the same manner and with the same effect as if such cities had a board of park commissioners or commissioners of public parks. (S. 3, Ch. 167, L. 1895.)

4. VIOLATIONS. Any such city by its common council may prescribe penalties for the violation of any rule or regulation it may prescribe for the use of any such boulevard or pleasure way. (S. 4, Ch. 167, L. 1895.)

10-07. Assessments Against City Property. 1. In all cities of the first class in this state, whenever it shall be duly determined to grade, gravel, macadamize, curb, pave or repave or otherwise improve any street, avenue, highway or alley contiguous to or bordering upon any public park, public building or public grounds therein, or to repair any sidewalk, or to lay water pipe or sewer in such street, avenue, highway or alley, the cost of making such improvements and the laying of such water pipe or sewer and the expense of repairs of such sidewalks, shall be chargeable to such contiguous or bordering public park, public building or public grounds, in the same manner, and to the same extent, as if such public park, public building or public grounds were private property, and the amount so chargeable shall be paid out of the general city fund of such city. Provided, however, that nothing herein contained shall be construed to repeal, modify, supersede or amend the provisions of chapter 199 of the laws of 1899 entitled "An act relating to special assessments for grading, macadamizing, and improving streets in cities of the first class." (S. 1, Ch. 246, L. 1901.)

2. All acts and parts of acts including the provisions of any special charter, which are inconsistent with this act, and not in harmony with its provisions, are hereby declared modified, amended, superseded or repealed, in so far as they interfere with the provisions of this act, excepting only the provisions of chapter 199, laws of 1899. (S. 2, Ch. 246, L. 1901.)

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10-08. Street Widening Along Park. 1. CITY MAY ACQUIRE LAND. Whenever proceedings shall be commenced in any city of the first class to make, open or widen a public alley, street or boulevard therein, and it shall be necessary for said purpose to use a strip of land along the border of any public park or other public place under the jurisdiction of the board of park commissioner, if any there be in such city, the common council in any such city shall have power to acquire such strip of land according to the provisions of this act. (S. 1, Ch. 233, L. 1913.)

2. PROCEDURE. The common council shall, except as herein otherwise provided, follow the procedure required by the laws of this state applicable to any such city relating to making, opening or widening of a street, alley or boulevard; provided, however, that nothing in this act contained shall permit any officer or department of such city to create any indebtedness, charge or claim whatsoever on account of the taking of any such strip of land payable out of any of the funds of such city which by law may be used only for public park or boulevard purposes. (S. 2, Ch. 233, L. 1913.)